

**RI STATE BOARD OF ELECTIONS  
MINUTES OF MEETING (HEARING)  
AUGUST 20, 2004**

**The Rhode Island State Board of Elections reconvened at 10:35 a.m.. A quorum included Chair Roger Begin, Vice Chair Thomas Iannitti, Commissioners Judith Bailey, John Daluz and Frank Rego. Executive Director Robert J. Fontaine and Counselor Raymond Marcaccio were in attendance, also.**

**The purpose of the meeting was to conduct a hearing on an appeal by Gary Vierra of a decision by the Cranston Board of Canvassers regarding the disaffiliation of voters and associated issues. (Note: The following minutes contain a brief summary of the hearing. A full transcript of said hearing is available at the Board of Elections).**

**Chair Begin commenced the hearing by asking the involved parties to introduce themselves. Present were: Cranston City Solicitor Jametta Alston representing the city; Michael Lepizzera representing Petitioner Mr. Gary Vierra and Cranston Canvassing Vice Chair Fred Joslin, Jr., attending as a member of the audience. (Note: The board of canvassers was technically not represented at the hearing).**

**Attorney Lepizzera addressed the Board. He expressed several concerns:**

- the Cranston Board of Canvassers may not have notified some 271**

voters that there was a disaffiliation issue with their voter registrations. (Note: At its hearing of July 1, 2004, the local board rendered the decision to mail a copy of said decision to the 271 voters.) Mr. Lepizzera questioned if the local board had gone forward with the mailing;

- the State Board might not have received the individual 271 complaints that were filed with the Cranston board regarding said disaffiliations; and
- the manner in which these disaffiliations were received by the local board. Attorney Lepizzera argued that a person must execute an affidavit (notarized document) with the local board, if the person does not appear in front of either the board of canvassers, the clerk, or duly authorized agent. Furthermore, he maintained that a federal law, the National Voter Registration Act, did away with the notary requirement for registrations, not disaffiliations.

Going forward, Attorney Lepizzera asked that the State Board follow the clear language of the law and determine the status of the 271 voters as of the disaffiliation deadline, June 16, 2004.

At this time, several of the Members posed questions to Director Fontaine and Attorneys Alston and Marcaccio:

- Mr. Fontaine offered that all local boards have been accepting disaffiliations via voter registration cards since 1995 without benefit of a notary;
- Ms. Alston remarked that she believes that this matter involving 271

**voters is not a question of an attempt to commit fraud; it is really a statutory interpretation question;**

**- Director Fontaine explained the many uses of the present registration form since 1995; that is, it can be used to register to vote in RI (first time) and/or to change a registered voter's name, address and party affiliation;**

**RI State Board of Elections**

**Minutes of Meeting**

**8-20-04**

**Page 2**

**- Vice Chair Iannitti and Commissioner Rego asked who was responsible for notifying the 271 individuals in the City of Cranston that their right to participate in the primary of their choice had been challenged. With this, Attorney Marcaccio offered that, perhaps, because the local board did not find that its decision of July 1, 2004 would affect the rights of the 271 voters, that it determined that there was no need to notify each of the persons; and**

**- Commissioner Rego questioned why only (these) 271 persons might be denied the right to vote in the primary of their choice. He queried why the Board is not being asked to go back to the whole (election) cycle. With this, Attorney Marcaccio responded that if the Board did find that the present mail-in registration format was not appropriate, then, typically, as when a decision is made by any court, it would have some prospective application, not retroactive application. That is, in the course of the judicial process that the Board is governed by,**

**the Board would affect the rights of people going forward.**

**At this time, the Board touched briefly on the status of Mr. Vierra; that is, whether or not he had/has standing in the matter as a qualified elector in the City of Cranston. Vice Chair Iannitti and Mr. Marcaccio, individually, offered that they do believe that Mr. Vierra has standing.**

**Going forward, Chair Begin proposed that the Board conclude the hearing for the day and to return on August 24, 2004 to accept a report and recommendations from Mr. Marcaccio on today's matter. The Members agreed to return on the 24th.**

**At 11:14 a.m. and with no further discussion, Chair Begin asked that a motion be made to adjourn the hearing. Vice Chair Iannitti and Commissioner Rego made and seconded the motion, respectively. The motion carried without opposition.**

**ATTEST: \_\_\_\_\_**

**Frances A. Keating, Coordinator, Special Projects**

**date**